

HOUSE BILL NO. 479

INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING SPECIAL IMPROVEMENT DISTRICT BONDS AND RURAL SPECIAL IMPROVEMENT DISTRICT BONDS TO BEAR INTEREST AT A VARIABLE RATE; PROVIDING ADJUSTMENTS IN THE INTEREST RATES ON SPECIAL ASSESSMENTS SECURING VARIABLE RATE BONDS; PROVIDING THAT VARIABLE RATE BONDS MAY BE SOLD AT A PRIVATE NEGOTIATED SALE IF THE PRINCIPAL AMOUNT IS LESS THAN \$500,000 AND THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF A MUNICIPALITY OBTAINS A MARKETABILITY OPINION; PROVIDING THAT THE BOARD OF INVESTMENTS REVIEW ITS PARTICIPATION IN VARIABLE RATE BONDS AND RECOMMEND ACTION TO THE 58TH LEGISLATURE; AMENDING SECTIONS 7-12-2171, 7-12-2176, 7-12-2183, 7-12-2184, 7-12-2193, 7-12-4189, 7-12-4194, 7-12-4203, 7-12-4223, AND 7-12-4224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-12-2171, MCA, is amended to read:

"7-12-2171. Details relating to rural improvement district bonds and warrants -- definitions of bond forms. (1) (A) The bonds and warrants must be drawn against either the construction or maintenance fund created for the special improvement district and must bear interest from the date of registration until called for redemption or paid in full. Bonds or warrants sold at a private, negotiated sale may bear interest at a rate varying periodically at the time or times and on the terms determined by the board of county commissioners. The terms determined by the board of county commissioners may include the establishment of a maximum rate of interest or the convertibility to a fixed rate of interest.

(B) VARIABLE RATE BONDS MAY BE SOLD AT A PRIVATE NEGOTIATED SALE IF THE PRINCIPAL AMOUNT OF THE BONDS IS \$500,000 OR LESS AND THE BOARD OF COUNTY COMMISSIONERS OBTAINS SEPARATE WRITTEN OPINIONS FROM UNDERWRITERS OF MONTANA RURAL IMPROVEMENT DISTRICT BONDS STATING THE BONDS ARE NOT MARKETABLE THROUGH A COMPETITIVE BOND SALE. BONDS SOLD IN PRINCIPAL AMOUNTS BELOW \$250,000 DO NOT REQUIRE A MARKETABILITY OPINION.

(C) The interest must be payable annually or semiannually, at the discretion of the board of county

commissioners, on the dates that the board prescribes. The warrants or bonds must bear the signatures of the presiding officer of the board and the county clerk and ~~must~~ may bear the corporate seal of the county. ~~They~~ The warrants or bonds must be registered in the office of the county clerk and the county treasurer, and if interest coupons are attached to the warrants or bonds, they must also be registered and shall bear the signatures of the ~~chairman~~ presiding officer of the board and the county clerk. The coupons may bear the facsimile signatures of the officers in the discretion of the board.

(2) The bonds must be in denominations of \$100 or fractions or multiples of \$100, may be issued in installments, and may extend over a period not to exceed 30 years. However, if federal loans are available for improvements, repayment may extend over a period not to exceed 40 years. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the county first levies to pay principal and interest on the bonds.

(3) As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(a) "Amortization bonds" means the form of bonds that bear interest at a fixed rate and on which:

(i) a part of the principal must be paid each time that interest becomes payable;

(ii) the part payment of principal increases at each installment in the same amount that the interest decreases;

(iii) the combined interest and principal due on each due date remains the same until the bonds are paid;

(iv) the final payment may vary from prior payments in the amount resulting from disregarding fractional costs in prior payments; and

(v) the initial payment may be larger than subsequent payments if the increase represents interest accrued over an additional period not greater than 6 months.

(b) "Serial bonds" means a bond issue payable in semiannual or annual installments commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing in each installment not exceeding five times the principal amount of the bonds maturing in the immediately preceding installment."

Section 2. Section 7-12-2176, MCA, is amended to read:

"7-12-2176. Interest rate on unpaid assessments. (1) ~~The~~ Except as provided in subsection (3),

1 the installments of assessments remaining unpaid bear simple interest at an annual rate equal to the sum
2 of:

3 (a) 1/2 of 1% a year; plus

4 (b) the average interest rate payable on the outstanding bonds or warrants of the rural special
5 improvement district at the time the assessment is levied each fiscal year; plus

6 (c) at the option of the board of county commissioners, up to an additional 1/2 of 1% a year.

7 (2) The board of county commissioners may subsequently reduce or eliminate the additional
8 interest rate allowed under subsection (1)(c). If the additional interest rate is reduced or eliminated, it may
9 not be subsequently increased or reimposed.

10 (3) If and so long as the bonds or warrants secured by the assessments bear interest at a variable
11 rate, the installments of assessments remaining unpaid must bear simple interest at an annual rate equal
12 to the sum of:

13 (a) 1% a year; plus

14 (b) the interest rate payable on the outstanding bonds or warrants of the rural special improvement
15 district at the time the assessment is levied each fiscal year; plus

16 (c) to the extent that the interest rate on the bonds or warrants is then less than the maximum
17 rate prescribed for the bonds or warrants or if there is no prescribed maximum rate, up to an additional
18 1% a year, as may be prescribed by the board of county commissioners in the resolution authorizing the
19 issuance or sale of the bonds or warrants."

20

21 **Section 3.** Section 7-12-2183, MCA, is amended to read:

22 **"7-12-2183. Loan from revolving fund to meet payments on bonds and warrants or to make**
23 **emergency repairs.** (1) During the period described in 7-12-2185(2), when any rural special improvement
24 district bond or warrant secured by the revolving fund or any interest on the bond or warrant becomes due
25 and payable and there is either no money or insufficient money in the appropriate district fund after a
26 transfer from the appropriate district reserve account, if established, with which to pay the bond, warrant,
27 or interest, an amount sufficient to make up the deficiency must be loaned by the revolving fund to the
28 district fund. The bond, warrant, or interest must be paid from the money loaned and money available in
29 the district fund. The loan must be made even if, in the case of bonds or warrants bearing interest at a
30 variable rate, the interest rate on the special assessments at the time the loan is made is less than or later

1 becomes less than the interest rate on the bonds or warrants.

2 (2) If there is insufficient money in the rural special improvement district maintenance fund to pay
3 the cost of emergency repairs, the board of county commissioners, by order or resolution, may loan money
4 from the revolving fund to the district maintenance fund. The loan must be repaid in annual installments
5 in not more than 3 years. The loans may not cause a default in the payments of the principal of the bonds
6 or warrants or the interest on the bonds or warrants. The loan must be repaid by an assessment as
7 provided by 7-12-2120 if other funds are not available. If there are insufficient funds in the revolving fund
8 to make the loans without causing a default in the payment of the principal of the bonds or warrants or
9 the interest on the bonds or warrants secured by the revolving fund, then the loans may not be made."

10

11 **Section 4.** Section 7-12-2184, MCA, is amended to read:

12 **"7-12-2184. Lien arising due to loan from revolving fund.** (1) Whenever ~~any~~ a loan is made to any
13 rural special improvement district fund from the revolving fund, the revolving fund ~~shall have~~ has a lien
14 ~~therefor~~ for the amount of the loan on the land within the district ~~which is delinquent in the payment of~~
15 ~~its~~ for which payments of assessments are delinquent and on all unpaid assessments and installments of
16 assessments on ~~such~~ the district, ~~(whether delinquent or not), and on~~ The lien also applies to all money
17 ~~thereafter~~ coming into ~~such~~ the district fund; up to the amount of ~~such~~ the loan, together with interest
18 ~~thereon on the loan~~ from the time it was made, at the interest rate ~~or percentage that is borne by the bond~~
19 or warrant for ~~payment of which, or of interest thereon, such~~ which the loan was made and that was
20 determined at the time the loan was made, even if the interest rate on the bond or warrant subsequently
21 changes.

22 (2) If, after all the bonds and warrants issued on any rural special improvement district have been
23 fully paid and all ~~moneys~~ money remaining in ~~such~~ the district fund ~~have~~ has been transferred to the
24 revolving fund, there still remains a debt from the district to the revolving fund, the board of county
25 commissioners may foreclose the lien upon property within the district ~~owing~~ for which unpaid
26 assessments are owed to the district for the purpose of paying off ~~said~~ the loan to the revolving fund."

27

28 **Section 5.** Section 7-12-2193, MCA, is amended to read:

29 **"7-12-2193. Refunding bonds.** (1) A county may issue special improvement district bonds for the
30 purpose of providing the money needed to pay principal of and interest on outstanding special

1 improvement district bonds. To issue bonds for that purpose, the board of county commissioners, at a
2 regular meeting or a duly called special meeting, shall adopt a resolution setting forth:

3 (a) the facts regarding the outstanding bonds that are to be refunded;

4 (b) the reasons for issuing refunding bonds; and

5 (c) the term and details of the refunding bonds.

6 (2) If the refunding bonds are proposed to be issued in an amount greater than the amount of
7 outstanding bonds to be refunded, the board may not authorize the issuance of the bonds until it has
8 conducted a public hearing on the desirability of issuing the bonds, after published and mailed notice as
9 provided in 7-12-2105(2), and found by resolution that the issuance of refunding bonds is in the best
10 interest of the special improvement district.

11 (3) After the adoption of the required resolution or resolutions, the board may:

12 (a) sell the refunding bonds at a private negotiated sale; or

13 (b) at its option, give notice of the sale and sell the refunding bonds in the same manner that other
14 special improvement district bonds are sold.

15 (4) Bonds may not be refunded by the issuance of refunding bonds unless:

16 (a) the rate of interest offered on the refunding bonds is at least 1/2 of 1% a year less than the
17 rate of interest on the bonds to be refunded or, if the bonds to be refunded bear interest at a variable rate,
18 the board determines that the issuance of fixed rate refunding bonds is in the best interest of the owners
19 of property in the district and the county or the board determines that the issuance of variable rate
20 refunding bonds based on a different index or formula than that of the refunded bonds is reasonably
21 expected to result over the remaining term of the bonds to be refunded in an interest rate at least 1/2 of
22 1% a year less than the rate of interest on the refunded bonds;

23 (b) there is, or will be on the next payment date, default in the payment of bond principal or
24 interest; or

25 (c) 50% or more of the installments of special assessments levied in the special improvement
26 district and payable in a single fiscal year have been delinquent for at least 1 year.

27 (5) (a) Refunding bonds issued pursuant to this section may be issued to refund outstanding bonds
28 in advance of the date on which the bonds mature or are subject to redemption, but the proceeds of the
29 refunding bonds, less any accrued interest or premium received from their sale, must be deposited with
30 other funds appropriated for the payment of the outstanding bonds in escrow with a suitable banking

1 institution or trust company, which may be located either in or out of the state.

2 (b) Deposited funds must be invested in securities that are general obligations of the United States
3 or securities the principal of and interest on which are guaranteed by the United States. The securities
4 must mature or be callable at the option of the holder on the dates and bear interest at the rates and be
5 payable on the dates as may be required to provide funds sufficient, with any cash deposited in the escrow
6 account, to pay when due:

7 (i) the interest to accrue on each refunded bond to its maturity or redemption date, if called for
8 redemption;

9 (ii) the principal on each refunded bond at maturity or upon the redemption date; and

10 (iii) any redemption premium.

11 (c) The escrow account must be irrevocably appropriated to the payment of the principal of an
12 interest and redemption premium, if any, on the refunded bonds.

13 (d) Funds to the credit of the debt service fund for the payment of the refunded bonds and not
14 required for the payment of principal or interest due prior to issuance of the refunding bonds may be
15 appropriated by the board to the escrow account.

16 (e) The county may pay the reasonable costs and expenses of issuing the refunding bonds and
17 of establishing and maintaining the escrow account.

18 (6) Refunding bonds may be issued under this section to pay principal of or interest on special
19 improvement district bonds outstanding on April 30, 1985, only if:

20 (a) the proceeds of the refunding bonds do not redeem the outstanding bonds until one-third or
21 more of the term for which the bonds were issued has expired;

22 (b) there is a deficiency in the bond account or interest account of the special improvement district
23 fund from which the bonds are payable; or

24 (c) 50% or more of the installments of special assessments levied in the special improvement
25 district and payable in a single fiscal year have been delinquent for at least 1 year."

26

27 **Section 6.** Section 7-12-4189, MCA, is amended to read:

28 **"7-12-4189. Simple interest on assessments.** (1) ~~Upon~~ Except as provided in subsection (3),
29 simple interest must be charged on all special assessments and taxes levied and assessed in accordance
30 with any of the provisions of this part; The simple interest must be charged at an annual rate equal to

1 the sum of:

2 (a) 1/2 of 1% a year; plus

3 (b) the average interest rate payable on the outstanding bonds or warrants of the special
4 improvement district at the time the assessment is levied each fiscal year; plus

5 (c) at the option of the city or town council, up to an additional 1/2 of 1% a year.

6 (2) The city or town council may subsequently reduce or eliminate the additional interest rate
7 allowed under subsection (1)(c). If the additional interest rate is reduced or eliminated, it may not be
8 subsequently increased or reimposed.

9 (3) If and so long as the bonds or warrants secured by the assessments bear interest at a variable
10 rate, the installments of assessments remaining unpaid must bear simple interest at an annual rate equal
11 to the sum of:

12 (a) 1% a year; plus

13 (b) the interest rate payable on the outstanding bonds or warrants of the rural special improvement
14 district at the time the assessment is levied each fiscal year; plus

15 (c) to the extent that the interest rate on the bonds or warrants is then less than the maximum
16 rate prescribed for the bonds or warrants or if there is no prescribed maximum rate, up to an additional
17 1% a year, as may be prescribed by the board of county commissioners in the resolution authorizing the
18 issuance or sale of the bonds or warrants.

19 ~~(3)~~(4) The treasurer, in collecting the special assessment taxes if the taxes are payable in one
20 installment, shall collect the interest ~~as may be~~ shown to be due on the taxes by the resolution levying the
21 assessment. If the assessment is payable in installments, the treasurer shall, at the time of collecting the
22 first installment, collect the interest ~~as may be~~ shown to be due on the assessment by the resolution
23 levying the assessment, and the treasurer shall collect with each subsequent installment interest on the
24 amount remaining unpaid."

25

26 **Section 7.** Section 7-12-4194, MCA, is amended to read:

27 **"7-12-4194. Refunding bonds.** (1) A city may issue special improvement district bonds for the
28 purpose of providing the money needed to pay principal of and interest on outstanding special
29 improvement district bonds. To issue bonds for that purpose, the city council, at a regular meeting or a
30 duly called special meeting, shall adopt a resolution setting forth:

1 (a) the facts regarding the outstanding bonds that are to be refunded;

2 (b) the reasons for issuing refunding bonds; and

3 (c) the term and details of the refunding bonds.

4 (2) If the refunding bonds are proposed to be issued in an amount greater than the amount of
5 outstanding bonds to be refunded, the city council may not authorize the issuance of the bonds until it has
6 conducted a public hearing on the desirability of issuing the bonds, after published and mailed notice as
7 provided in 7-12-4106(2), and found by resolution that the issuance of refunding bonds is in the best
8 interest of the special improvement district.

9 (3) After the adoption of the required resolution or resolutions, the council may:

10 (a) sell the refunding bonds at a private negotiated sale; or

11 (b) at its option, give notice of the sale and sell the refunding bonds in the same manner that other
12 special improvement district bonds are sold.

13 (4) Bonds may not be refunded by the issuance of refunding bonds unless:

14 (a) the rate of interest offered on the refunding bonds is at least 1/2 of 1% a year less than the
15 rate of interest on the bonds to be refunded or, if the bonds to be refunded bear interest at a variable rate,
16 the council determines that the issuance of fixed rate refunding bonds is in the best interest of the owners
17 of property in the district and the city or the council determines that the issuance of variable rate refunding
18 bonds based on a different index or formula than that of the refunded bonds is reasonably expected to
19 result over the remaining term of the bonds to be refunded in an interest rate at least 1/2 of 1% a year
20 less than the rate of interest on the refunded bonds;

21 (b) there is, or will be on the next payment date, default in the payment of bond principal or
22 interest; or

23 (c) 50% or more of the installments of special assessments levied in the special improvement
24 district and payable in a single fiscal year have been delinquent for at least 1 year.

25 (5) (a) Refunding bonds issued pursuant to this section may be issued to refund outstanding bonds
26 in advance of the date on which the bonds mature or are subject to redemption, but the proceeds of the
27 refunding bonds, less any accrued interest or premium received from their sale, must be deposited with
28 other funds appropriated for the payment of the outstanding bonds in escrow with a suitable banking
29 institution or trust company, which may be located either in or out of the state.

30 (b) Deposited funds must be invested in securities that are general obligations of the United States

1 or securities the principal of and interest on which are guaranteed by the United States. The securities
2 must mature or be callable at the option of the holder on the dates and bear interest at the rates and be
3 payable on the dates as may be required to provide funds sufficient, with any cash deposited in the escrow
4 account, to pay when due:

5 (i) the interest to accrue on each refunded bond to its maturity or redemption date, if called for
6 redemption;

7 (ii) the principal on each refunded bond at maturity or upon the redemption date; and

8 (iii) any redemption premium.

9 (c) The escrow account must be irrevocably appropriated to the payment of the principal of an
10 interest and redemption premium, if any, on the refunded bonds.

11 (d) Funds to the credit of the debt service fund for the payment of the refunded bonds and not
12 required for the payment of principal or interest due prior to issuance of the refunding bonds may be
13 appropriated by the council to the escrow account.

14 (e) The city may pay the reasonable costs and expenses of printing the refunding bonds and of
15 establishing and maintaining the escrow account.

16 (6) Refunding bonds may be issued under this section to pay principal of or interest on special
17 improvement district bonds outstanding on April 30, 1985, only if:

18 (a) the proceeds of the refunding bonds do not redeem the outstanding bonds until one-third or
19 more of the term for which the bonds were issued has expired;

20 (b) there is a deficiency in the bond account or interest account of the special improvement district
21 fund from which the bonds are payable that will not be satisfied by a loan from the revolving fund; or

22 (c) 50% or more of the installments of special assessments levied in the special improvement
23 district and payable in a single fiscal year have been delinquent for at least 1 year."

24

25 **Section 8.** Section 7-12-4203, MCA, is amended to read:

26 **"7-12-4203. Details relating to special improvement district bonds and warrants -- definitions of**
27 **bond forms.** (1) (A) The bonds and warrants must be drawn against the special improvement district fund
28 created for the district and must bear interest from the date of registration until called for redemption or
29 paid in full. Bonds or warrants sold at a private, negotiated sale may bear interest at a rate varying
30 periodically at the time or times and on the terms determined by the governing body of the municipality.

1 The terms determined by the governing body of the municipality may include the establishment of a
2 maximum rate of interest or the convertibility to a fixed rate of interest.

3 (B) VARIABLE RATE BONDS MAY BE SOLD AT A PRIVATE NEGOTIATED SALE IF THE PRINCIPAL AMOUNT OF THE
4 BONDS IS \$500,000 OR LESS AND THE GOVERNING BODY OF THE MUNICIPALITY OBTAINS SEPARATE WRITTEN OPINIONS
5 FROM UNDERWRITERS OF MONTANA SPECIAL IMPROVEMENT DISTRICT BONDS STATING THE BONDS ARE NOT MARKETABLE
6 THROUGH A COMPETITIVE BOND SALE. BONDS SOLD IN PRINCIPAL AMOUNTS BELOW \$250,000 DO NOT REQUIRE A
7 MARKETABILITY OPINION.

8 (C) The interest must be payable annually or semiannually, at the discretion of the governing body
9 of the municipality, on the dates that the governing body prescribes. The warrants or bonds must bear the
10 signatures of the mayor and clerk and ~~must~~ may bear the corporate seal of the city. The warrants or bonds
11 must be registered in the office of the clerk and treasurer, and if interest coupons are attached to the
12 warrants or bonds, they must also be registered and bear the signatures of the mayor and clerk.

13 (2) The bonds must be in denominations of \$100 or fractions or multiples of \$100, may be issued
14 in installments, and may extend over a period not to exceed 20 years or, if refunding bonds are issued
15 pursuant to 7-12-4194, over a period ending not later than 30 years after the date that the bonds to be
16 refunded were issued. For the purposes of this subsection, the term of a bond issue commences on July
17 1 of the fiscal year in which the city first levies assessments to pay principal and interest on the bonds.

18 (3) As used in part 41 and this part, unless the context clearly indicates otherwise, the following
19 definitions apply:

20 (a) "Amortization bonds" means the form of bonds that bear interest at a fixed rate and on which:

21 (i) a part of the principal must be paid each time that interest becomes payable;

22 (ii) the part payment of principal increases at each installment in the same amount that the interest
23 decreases;

24 (iii) the combined interest and principal due on each due date remains the same until the bonds are
25 paid;

26 (iv) the final payment may vary from prior payments in the amount resulting from disregarding
27 fractional costs in prior payments; and

28 (v) the initial payment may be larger than subsequent payments if the increase represents interest
29 accrued over an additional period not greater than 6 months.

30 (b) "Serial bonds" means a bond issue payable in semiannual or annual installments commencing

not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing in each installment not exceeding five times the principal amount of the bonds maturing in the immediately preceding installment."

Section 9. Section 7-12-4223, MCA, is amended to read:

"7-12-4223. Loans from revolving fund to meet payments on bonds and warrants. During the period described in 7-12-4225(2), when any special improvement district bond or sidewalk, curb, and alley approach warrants that are secured by the revolving fund or any interest on the bond or warrants becomes due and payable and there is either no money or insufficient money in the appropriate district fund after a transfer from the appropriate district reserve account, if established, with which to pay the bond, warrant, or interest, an amount sufficient to make up the deficiency must be loaned by the revolving fund to the district fund. The bond, warrant, or interest must be paid from the money loaned or from the money loaned and money available in the district fund. The loan must be made even if, in the case of bonds or warrants bearing interest at a variable rate, the interest rate on the special assessments at the time the loan is made is less than or later becomes less than the interest rate on the bonds or warrants."

Section 10. Section 7-12-4224, MCA, is amended to read:

"7-12-4224. Lien arising due to loan from revolving fund. Whenever any loan is made to any special improvement district fund or sidewalk, curb, and alley approach warrants from the revolving fund, the revolving fund ~~shall have~~ has a lien ~~therefor~~ for the amount of the loan on all unpaid assessments and installments of assessments on ~~such the~~ the district, ~~(whether delinquent or not), and on~~ The lien also applies to all money thereafter coming into such the district fund, up to the amount of such the loan, together with interest thereon on the loan from the time it was made, at the interest rate or percentage that is borne by the bond or warrant for payment of which the loan was made, or of interest thereon, such loan was made and that was determined at the time the loan was made, even if the interest rate on the bond or warrant subsequently changes."

NEW SECTION. SECTION 11. BOARD OF INVESTMENT PARTICIPATION IN BONDING -- REVIEW. THE BOARD OF INVESTMENTS SHALL REVIEW THEIR PARTICIPATION IN ISSUING RURAL IMPROVEMENT DISTRICT BONDS AND SPECIAL IMPROVEMENT DISTRICT BONDS AND PROVIDE A REPORT TO THE 58TH LEGISLATURE WITH RECOMMENDATIONS TO

1 INCREASE OR DECREASE THE LIMIT UNDER WHICH A MARKETABILITY OPINION IS NECESSARY AS PROVIDED FOR IN
2 7-12-2171 AND 7-12-4203.

3

4 NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

5 - END -